

6/29/07

Re: MB Docket No. 07-57, Matter of Consent for Transfer of License Control from XM to Sirius

COMMENT

As a subscriber and investor in Sirius Satellite Radio Inc. for over about 18 months, I have dual interests in this service. A successful merger would serve my near-term personal financial interests, as my investment would be expected to appreciate more quickly than if the companies remain independent.

I have little doubt that, in the long run, a combined satellite radio company would cost me more money in subscription fees than the status quo. It is a microeconomic axiom that removing a competitor, all else being equal, will ease pricing pressure. Arguments to the contrary, which call attention to increasing competition from other forms of radio and radio-like entertainment as constraints on the combined satellite entity's prices, are specious. There is no doubt that satellite radio competes with non-satellite based services, including free services, which are likely to continue to proliferate, but there is also no doubt that one less competitor among premium (i.e. paid-for) offerings will tend to increase premium-service prices for consumers. That said, I anticipate that the combined entity will be circumspect in its pricing policies and is likely to offer tiered-pricing for some programs, which will slow the rate of price inflation for my satellite radio service, in contrast to the robust inflation I now experience with my cable TV service.

Despite eventually paying more for the combined service, I also have no doubt that the public, on balance, would be much better served by a combined entity than by both companies going it alone. I say this confidently, because in order for Sirius to continue to offer the types of niche programming that I, and presumably millions of others enjoy, it must make continued investments in its more popular services. Some of these investments, such as top on-air talent, sporting coverage contracts, and improved signal transmission and interception technologies are substantial. To date, Sirius has made enough talent, program, and infrastructure investments to make the service attractive to a small number of subscribers, but it has done so at the cost of large, continuing operating losses. Such losses are not sustainable. Eventually, the company must sacrifice scale back some investments, and the earliest sacrifices are likely to be those that cost the company the fewest subscribers, i.e. its niche programs.

In my mind, supporting the continued availability of limited-advertising, niche programming provided by satellite radio should be foremost on the minds of FCC commissioners, as they weigh the benefits and costs to consumers of the proposed XM-Sirius merger.

The public has many opportunities to entertain and inform itself with popular and niche programs supported by a combination of subscription and advertising dollars. Advertisers are increasingly drawn to niche-program audiences, as technology to target audiences improves. But the advertising market depends on program providers to have these audiences to begin with. It is doubtful that cable TV, for example, could continue to offer a healthy variety niche programming, if it had to offer it a la carte. Many of the individual programs would simply not be popular enough and would, on their own, not attract enough advertising to support their continued carriage. Furthermore, FCC should be mindful that cable TV providers are allowed to maintain regional monopsonies or oligopsonies, which afford them the ability to offer full suites of popular programs (i.e. broadcasting competitors don't compete with each other for exclusive national or regional program offerings). These popular programs attract and maintain the core audience that allows cable TV providers to charge high subscription fees that, in turn, help support niche programming. In other words, it seems to be a necessary tradeoff in a free market economy with relatively little direct government support of programming, to allow radio and television providers the ability to acquire and to bundle programs that appeal to a large subscriber base in return for broadcaster's provision of niche programs, which of themselves, would be economically infeasible to offer on a mass-audience basis.

Accepting that a proposed merger of XM and Sirius will not necessarily reduce prices for individual consumers, nor constrain price inflation, the proposed merger is still appealing on balance, because it creates the ability for a single satellite radio company to acquire a comprehensive suite of popular entertainment and information programs that are necessary to attract and retain a large enough subscriber base to allow for continued provision of desirable niche programs. Without the merger, both companies will likely struggle to remain full-service program providers, with a probable outcome that one or both will discontinue programs with less mass subscriber appeal, scale back on infrastructure maintenance and improvement, and possibly go out of business. I do not see how such a future would be better for the American public on balance.